

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CHAPTER 7
	:	
BOBBY MANALCUS WILBANKS,	:	CASE NO. 10-60990-WLH
KIMBERLY ANN WILBANKS	:	
	:	
Debtors.	:	

TRUSTEE’S MOTION TO PAY DEBTORS’ CLAIMED EXEMPTION

COMES NOW S. Gregory Hays, as Chapter 7 Trustee (“**Trustee**”) for the bankruptcy estates (collectively, the “**Bankruptcy Estate**”) of Bobby Manalcus Wilbanks and Kimberly Ann Wilbanks (collectively, “**Debtors**”), by and through undersigned counsel, and files *Trustee’s Motion to Pay Debtors’ Claimed Exemption* (the “**Motion**”), and respectfully shows the Court the following:

Jurisdiction and Venue

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409(a).

Background and Relief Requested

2. On January 12, 2010 (“**Petition Date**”), Debtors filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code, and initiated Case No. 10-60990-WLH (the “**Bankruptcy Case**”). On May 20, 2010, the Court entered an *Order Discharging Chapter 7 Debtors*. [Doc. No. 19]. On September 6, 2013, the Court entered an *Order Discharging Debtors*

and Closing Estate. [Doc No. 51]. Barbara B. Stalzer was appointed to the Bankruptcy Case as the interim Chapter 7 trustee on or about the Petition Date, under 11 U.S.C. § 701(a)(1).

3. On June 14, 2018, the United States Trustee filed a motion to reopen the Bankruptcy Case so that an unscheduled product liability claim of Debtors related to the implant of a medical device in Mrs. Wilbanks (the “**Claim**”) could be administered for the benefit of Debtors’ creditors [Doc No. 53]. On June 18, 2018, the Court entered an order reopening the case. [Doc. No. 57].

4. On June 26, 2018, Trustee was appointed as successor Chapter 7 Trustee and remains in that role. [Doc No. 59].

5. On March 22, 2021, the Court entered an order [Doc. No. 87] (the “**Settlement Order**”) approving a settlement of the Claim (the “**Settlement**”).

6. Prior to entry of the Settlement Order, on March 2, 2021, the Court entered a consent order [Doc. No. 83] authorizing Debtors’ claimed exemption in the Settlement in the amount of \$11,500.00 under O.C.G.A. §§ 44-13-100(a)(6) and (a)(11)(D) (the “**Exemption**”).

7. Trustee has received the funds related to the Settlement (the “**Settlement Funds**”).

8. Trustee would like to pay Debtors \$11,500.00 on account of their Exemption, from the Settlement Funds.

9. Trustee requests an order from the Court authorizing him to pay Debtors their Exemption in the amount of \$11,500.00.

WHEREFORE, Trustee requests an order from the Court authorizing him to pay Debtors their Exemption in the amount of \$11,500.00 and for such other and further relief that the Court deems just and proper.

Respectfully submitted this 16th day of June, 2021.

ARNALL GOLDEN GREGORY LLP
Attorneys for Chapter 7 Trustee

By: /s/ Michael J. Bargar
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CERTIFICATE OF SERVICE

This is to certify that I, Michael J. Bargar, am over the age of 18, and that I have this day served a copy of the forgoing *Trustee's Motion to Pay Debtors' Claimed Exemption* by first class United States Mail, with adequate postage prepaid, on the following persons or entities at the addresses stated:

Office of the United States Trustee
Room 362, Richard B. Russell Building
75 Ted Turner Drive, S.W.
Atlanta, Georgia 30303

S. Gregory Hays
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2964 Peachtree Road, Suite 555
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Karen Scott Greene
Karen Scott Greene, PC
PO Box 390322
Snellville, GA 30039

Bobby Manalocus Wilbanks
426 Ellington Road
Oxford, GA 30054

Kimberly Ann Wilbanks
426 Ellington Road
Oxford, GA 30054

This 16th day of June, 2021.

/s/ Michael J. Bargar
Michael J. Bargar
Georgia Bar No. 645709